

The Corporation of the City of Kawartha Lakes
Minutes
Committee of Adjustment Meeting

COA2018-04
Thursday, April 19, 2018
1:00 P.M.
Council Chambers
City Hall
26 Francis Street, Lindsay, Ontario K9V 5R8

Members:
Councillor Kathleen Seymour-Fagan
Betty Archer
David Marsh
Sandra Richardson
Lloyd Robertson
Steve Strathdee

Accessible formats and communication supports are available upon request.

1. **Call to Order**

Chair L. Robertson called the meeting to order at 1:00 p.m. Councillor K. Seymour-Fagan and Members D. Marsh, B. Archer, S. Richardson and S. Strathdee were in attendance.

Recording Secretary - Charlotte Crockford-Toomey

2. **Administrative Business**

2.1 Adoption of Agenda

2.1.1 COA2018-04 2.1.1

Moved By B. Archer

Seconded By Councillor Seymour-Fagan

That the agenda for the meeting be approved.

Carried

2.2 Declaration of Pecuniary Interest

There were no declarations of pecuniary interest noted.

2.3 Adoption of Minutes

2.3.1 COA2018-03

March 15th, 2018

Committee of Adjustment Meeting Minutes.

Moved By Councillor Seymour-Fagan

Seconded By S. Strathdee

That the minutes of the previous meeting held March 15th, 2018 be adopted as circulated.

Carried

3. **New Applications**

3.1 Minor Variances

3.1.1 COA2018-018

David Harding, Planner II

File Number: D20-17-042

Location: 59 Cambridge Street North

Town Plan North, Part of Lot 11, South of Bond Street

Former Town of Lindsay

Owners: Jordan and Christa Bress

Applicant: Jordan Bress

Mr. Harding summarized report COA2018-018. The owners propose to construct a detached garage with a storage loft on the subject property. The storage loft would only be accessible by ladder. He cited comments from Community Services Department that had been received since the writing of the report noting no concerns. Mr. Harding clarified that there was a typographical error in the report. The year of the last amended application date should read 2018, not 2017.

The Committee questioned whether a survey was conducted that identified whether the fencing around the subject property encroached onto the municipal road allowances, and if so, why a condition had not been recommended for the owner to enter into a license agreement with the Realty Services Division. Staff advised that a survey had been conducted identifying that the fence is encroaching, but that the encroachment did not pertain to the proposal before the Committee. Staff had advised the owners that they are required to enter into a license agreement with Realty Services Division now that the encroachment is identified, and Realty Services was circulated on the application.

The Committee also asked questions pertaining to how proposed condition 2 in the staff report would be applied. Staff clarified how the condition would be applied.

Members of the Committee stated that they believed a condition requiring a license agreement was necessary to address the encroachment.

The applicant, Jordan Bress, was present, but did not speak.

Moved By S. Richardson

Seconded By B. Archer

That minor variance application D20-17-042 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

Conditions:

1. **That** the construction of the detached garage related to this approval shall proceed substantially in accordance with the sketch in Appendix “C” and elevations in Appendix “D” submitted as part of Report COA2018-018, which shall be attached to and form part of the Committee’s Decision;
2. **That** prior to the issuance of a building permit, the owner shall submit to the Secretary Treasurer written confirmation from the Realty Services Division that a licence agreement has been entered into with respect to the encroaching fence within the Bond Street and Cambridge Street North Municipal Road Allowances;
3. **That** prior to the framing inspection, the owner shall submit to the Building Division a certificate or plan prepared by an Ontario Land Surveyor that confirms that the dimensions of the setbacks proposed to the rear and flankage lot lines and to the pool conform to the requirements of the Zoning By-law and the variance granted by this Decision; and
4. **That** the building construction related to this minor variance shall be completed within a period of twelve (12) months after the date of the Notice of Decision, failing which this application shall be deemed to be refused. This condition will be considered fulfilled upon completion of the first Building Inspection.

This approval pertains to the application as described in report COA2018-018. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Carried

3.1.2 COA2018-019

David Harding, Planner II
 File Number: D20-17-047
 Location: 18 Cockburn Street, West
 Part of Lots 32 and 33, Plan 30
 Geographic Township of Laxton
 Owner: Deirdre Fowler
 Applicant: Jim Slack

Mr. Harding summarized report COA2018-019. The owner proposes to construct a single dwelling on the subject property. He cited comments from Community Services Department that had been received since the writing of the report noting no concerns.

The applicant, Jim Slack, was present. He stated that the new build would be on the same foot print as the former dwelling, and that a raised basement was

necessary due to the high water table. He continued to say the roof is designed to direct water to Cockburn Street. The Committee asked the applicant if he was aware that a permit was required from the Ministry of Transportation. Mr. Slack replied that he was.

Mr. Slack asked whether the Committee was able to grant additional relief to the requested exterior side yard setback in the event the foundation was constructed in the wrong location. Mr. Harding responded that the Committee is unable to grant relief greater than what was advertised.

Moved By D. Marsh

Seconded By S. Strathdee

That minor variance application D20-17-47 be GRANTED. as the application meets the tests set out in Section 45(1) of the Planning Act.

Conditions:

1. **That** the construction of the single detached dwelling related to this approval shall proceed substantially in accordance with the sketch in Appendix “C” and generally in accordance with the elevation in Appendix “D” submitted as part of Report COA2018-019, which shall be attached to and form part of the Committee’s Decision; and
2. **That** the building construction related to the minor variances shall be completed within a period of twelve (12) months after the date of the Notice of Decision, failing which this application shall be deemed to be refused. This condition will be considered fulfilled upon completion of the first Building Inspection.

This approval pertains to the application as described in report COA2018-019. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Carried

3.1.3 COA2018-020

Quadri Adebayo, Planner II

File Number: D20-2018-013

Location: 15 Loop Line

Part Lot 20, Concession 4

Geographic Township of Emily

Owners: Kevin and Tamara Thirnbeck

Applicant: Landmark Associates Ltd. c/o Darryl Tighe

Mr. Adebayo summarized report COA2018-020 to request relief to permit the reconstruction of a detached garage on the property of 15 Loop Line.

The Committee noted that the metal clad building was in excess of the 225 metres lot area required for accessory structures in a residential zone. Staff were unaware and also stated that a lot line adjustment was requested 3 years ago (error through the Building Division).

The applicant, Amanda Dougherty, from Landmark Associates was present and said that she was in agreement with the report. The Committee asked what was in the metal clad shed. The applicant replied the owner has a lot of toys for outdoor activities.

The Owner, Mr. Thirnbeck, was present and spoke. The metal shed was built in 1966 and an associated building permit was issued in 1998 for the same building. Also, that the excess lot area requirements took affect in 2012. And that he purchased the adjacent properties beside and behind the subject property in 1991 where two and three acre lots were severed off respectively to create two separate residential parcels. The Committee asked why haven't they rectified and corrected zoning by-law as this will be a problem when selling. Staff responded that the discrepancies will be resolved in the near future when the city's zoning by-laws are consolidated. The Committee also stated that by-laws in the past were different from township to township. Staff confirmed Condition 3 states as a requirement that the green shed and steel storage unit be removed from the property to the satisfaction of the Chief Building Official.

Moved By S. Richardson

Seconded By B. Archer

That minor variance application D20-2018-013 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

Conditions:

1. **That** the construction of the detached garage related to this approval shall proceed generally in accordance with the sketch in Appendix "C" and elevations in Appendix "D" submitted as part of Report COA2018-020, which shall be attached to and form part of the Committee's Decision. Any deviation from these specifications will require review by the City and may necessitate further approvals to be granted by the City and/or any other governing agency, body or authority, where applicable;

2. **That** the owner acknowledge through the granting of this approval that the accessory structure shall not be used for human habitation, nor shall it be connected to water or septic facilities. Similar wording shall be placed on the required building permit;
3. **That** as part of issuance of the building permit, there be a requirement that the green tent, and the steel storage container shall be removed from the property to the satisfaction of the Chief Building Official; and
4. **That** the building construction related to the minor variance shall be completed within a period of twelve (12) months after the date of the Notice of Decision, failing which this application shall be deemed to be refused. This condition will be considered fulfilled upon completion of the first Building Inspection.

This approval pertains to the application as described in report COA2018-020. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Carried

3.1.4 COA2018-021

David Harding, Planner II

File Number: D20-2018-014

Location: 19 Lila Court

Lot 8, Plan 243

Geographic Township of Emily

Owners: Laura Georgiou, Frank Lozicki and Robert Crothers

Applicant: Laura Georgiou

Mr. Harding summarized report COA2018-021. The owners request relief to reduce water setback to permit the construction of a vacation dwelling on the subject property.

The Committee asked for clarification on proposed conditions 2 and 4. Staff provided clarification to the Committee.

The Applicant Laura Georgiou, was present.

The Committee asked Ms. Georgiou if 18 months was sufficient time to complete landscaping. Ms. Georgiou stated that it was.

Moved By S. Strathdee

Seconded By D. Marsh

That minor variance application D20-2018-014 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

Conditions:

1. **That** the construction of the vacation dwelling related to this approval shall proceed substantially in accordance with the site grading plan in Appendix “C” and elevation in Appendix “D” submitted as part of Report COA2018-021, which shall be attached to and form part of the Committee’s decision;
2. **That** notwithstanding the definition of Water Setback, an unenclosed deck is not permitted to extend an additional 4 metres into the 18 metre minimum water setback established by this variance;
3. **That** the owners provide documentation satisfactory to the Chief Building Official or his/her designate demonstrating that the deck and stairs on the south side of the dwelling maintain a minimum setback of 4.88 metres from the hydro line depicted in Appendix “C” to Report COA2018-021;
4. **That** the owners consult with the Kawartha Region Conservation Authority (KRCA) to create and implement a planting plan and/or other mitigation techniques within the rear yard to improve the general health of the shoreline. The owners shall carry out or cause to be carried out the planting plan and/or mitigation techniques developed by said consultation. Prior to the issuance of an Occupancy Permit the owners shall provide to the Secretary-Treasurer and Chief Building Official or his/her designate written confirmation from the KRCA that the vegetation required in the planting plan has been planted to its satisfaction and/or the other mitigation techniques have been satisfactorily carried out within a period of eighteen (18) months after the date of the Notice of Decision, failing which this application shall be deemed to be refused;
5. **That** prior to the issuance of a Building Permit for the vacation dwelling, the owners shall obtain a permit from the KRCA pursuant to Ontario Regulation 182/06. The owners shall submit to the Secretary-Treasurer and the Chief Building Official or his/her designate a copy of the permit;
6. **That** prior to the issuance of the Occupancy Permit, the Chief Building Official or his/her designate shall confirm, in writing to the Secretary-Treasurer, that the temporary storage structure within the rear yard identified as “Tent Shed To Be Removed” on the site grading plan in Appendix “C” submitted as part of Report COA2018-021, has been removed from the property. The removal must occur within a period of eighteen (18) months after the date of the Notice of Decision, failing which this application shall be deemed to be refused; and
7. **That** the building construction related to the minor variances shall be completed within a period of twelve (12) months after the date of the Notice of

Decision, failing which this application shall be deemed to be refused. This condition will be considered fulfilled upon completion of the first Building Inspection.

This approval pertains to the application as described in report COA2018-021. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Carried

3.1.5 COA2018-023

Quadri Adebayo, Planner II
 File Number: D20-2018-016
 Location: 110 Crescent Drive
 Part Lot 15, Concession 7, Plan 348, Lot 12
 Geographic Township of Verulam
 Owners: Domenico and Melissa Salciccia
 Applicant: Garry Newhook

Mr. Adebayo summarized report COA2018-023 to request relief to permit an accessory building in front yard, where it is only permitted in the side or rear yard.

The Committee asked the question as to whether we should consider the undersized lot today in reference to page 3 of the Report in Rationale. Is it worth noting it is an undersized lot? Staff replied the report accurately indicates the data on file and that the size of the lot does not affect the conditions referred in the report. The Committee asked if the applicant would be restricted to size of buildable area on the lot and septic system should they decide to build a new house in the future. Staff replied bigger dwelling, bigger septic system. The Committee asked if there was a 5 metre height requirement in the by-law. Staff replied yes.

The applicant, Garry Newhook, was present and spoke. The lot according to his survey is 1.7 hectare, therefore he considered it not to be undersized. Staff confirmed it was undersized. The Committee suggested the application should be deferred due to inconsistent lot area information.

The Committee questioned setback, height, location and structure in the front yard.

Moved By D. Marsh

Seconded By B. Archer

That an amendment be made to support the 5 metre height.

Defeated

A further amendment was made to support a 5.7 metre height as there would not be much height difference compared to other homes in the area.

Moved By Councillor Seymour-Fagan

Seconded By S. Richardson

That the original motion be amended to read 5.7 metres in height.

Defeated

Both D. Marsh and L. Robertson spoke against the amendment as the by-law only allows 5 metres in height and there have been problems in the past with human habitation.

The original motion was put forward and failed.

Moved By D. Marsh

Seconded By S. Strathdee

That the Committee proposed to grant relief #1 and #3 pertaining to accessory building location and front yard depth and deny relief #2 pertaining to accessory building height.

That relief from Section 5.1.3(b) and Section 5.2(d) of minor variance application D20-2018-016 for be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

That relief from Section 5.1.5 of minor variance application D20-2018-016 be DENIED as the application does not meet the tests set out in Section 45(1) of the Planning Act.

Conditions:

1. **That** the construction of the accessory garage related to this approval shall proceed generally in accordance with the sketch in Appendix "C" and elevations in Appendix "D" submitted as part of Report COA2018-023, which shall be attached to and form part of the Committee's Decision. Any deviation from these specifications will require review by the City and may necessitate further approvals to be granted by the City and/or any other governing agency, body or authority, where applicable;
2. **That** prior to the issuance of a Building Permit the owner shall submit to the Secretary-Treasurer a revised proposal sketch and elevations showing the

proposed garage as maintaining a maximum height of 5 metres in accordance with the by-law definition as “the mean level between eaves and ridge of a gabled, hip, gambrel or mansard roof, or other type of pitched roof”; and showing the Hydro line being relocated to a safer unobstructing location. This condition will be considered fulfilled once the owner submits to the Secretary-Treasurer written confirmation from the Building Division advising that the revised Hydro line location, and the revised building height respectively, are appropriate for the proposed development;

3. **That** prior to the issuance of a Building Permit, the owner shall obtain all necessary permits required by the KRCA;
4. **That** the owner acknowledge through the granting of this approval that the accessory structure shall not be used for human habitation, nor shall it be connected to water or septic facilities. Similar wording shall be placed on the required building permit; and
5. **That** the building construction related to the minor variance shall be completed within a period of twelve (12) months after the date of the Notice of Decision, failing which this application shall be deemed to be refused. This condition will be considered fulfilled upon completion of the first Building Inspection.

This approval pertains to the application as described in report COA2018-023. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Carried

3.1.6 COA2018-024

Quadri Adebayo, Planner II
 File Number: D20-2018-017
 Location: 270 Louisa Street
 Part Lot 28, Concession 10
 Geographic Township of Fenelon
 Owners: Michael Hoskin and Deborah Bruyns
 Applicant: Michael Hoskin

Mr. Adebayo summarized report COA2018-024 to request relief to permit the construction of a storage shed.

The applicant/owner, Mr. Hoskin, was present to answer questions. The Committee had no questions.

Moved By D. Marsh

Seconded By S. Richardson

That minor variance application D20-2018-017 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

Conditions:

1. **That** the construction of the storage shed related to this approval shall proceed generally in accordance with the sketch in Appendix “C” and elevations in Appendix “D” submitted as part of Report COA2018-024, which shall be attached to and form part of the Committee’s Decision. Any deviation from these specifications will require review by the City and may necessitate further approvals to be granted by the City and/or any other governing agency, body or authority, where applicable;
2. **That** the applicant acknowledge through the granting of this approval that the accessory structure shall not be used for human habitation, nor shall it be connected to water or septic facilities. Similar wording shall be placed on the required building permit;
3. **That** prior to a final Building Inspection for the proposed storage shed, the steel container shall be removed from the property to the satisfaction of the Chief Building Official; and
4. **That** the building construction related to the minor variance shall be completed within a period of twelve (12) months after the date of the Notice of Decision, failing which this application shall be deemed to be refused. This condition will be considered fulfilled upon completion of the final Building Inspection.

This approval pertains to the application as described in report COA2018-024. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Carried

3.2 Consents

4. Deferred Applications

4.1 Minor Variances

4.2 Consents

4.2.1 COA2018-022

David Harding, Planner II
 File Number: D03-17-033
 Location: 791 and 795 Cottingham Road
 Lot 21, Concession 3
 Geographic Township of Emily
 Owners: Shirley and Hugh Fife
 Applicant: Hugh Fife

Mr. Harding summarized report COA2018-022. He stated that the Committee of Adjustment declared support of application in principle at the previous March 15th Committee of Adjustment Meeting and that it was deferred to the current meeting to allow staff sufficient time to provide a proposed list of provisional consent conditions so that the Committee may proceed with granting provisional consent.

The Committee asked for clarification on Condition 3. Staff confirmed Condition 3 is put in place to prohibit more than one dwelling in the future as the zoning by-law currently permits two. The zoning by-law amendment would be a typical condition as part of any proposal to sever a dwelling surplus to a farming operation as a result of a farm consolidation to conform to provisional and municipal policy. The Committee also asked about the typical circumstances that would be in place for a dwelling to be considered surplus to a farm operation. Staff provided clarification. The Committee questioned what would happen if Ministry of Municipal Affairs were to appeal the decision. Staff clarified that the solicitor would be appointed to meet with staff and then it would go to Council for a decision on whether the City would defend the Committee's decision.

The applicant, Mr. Fife, was present to answer questions.

A recorded vote was requested by Chair Robertson.

Moved By D. Marsh

Seconded By Councillor Seymour-Fagan

That on April 19th, 2018 the Committee of Adjustment determined that the Consent Application D03-17-033, which proposes to sever an approximately 0.72 hectare residential lot (791 Cottingham Road) containing a single detached dwelling along with an accessory building and retain an approximately 39.75 hectare agricultural lot (795 Cottingham Road) containing a single detached dwelling, be GRANTED.

The Committee has considered all written and oral submissions made to the Committee before making its decision to grant the provisional consent.

The decision and the following set of conditions represent good planning.

CONDITIONS OF PROVISIONAL CONSENT:

1. This approval applies to the transaction as applied for.
2. The owners shall apply for and obtain a change of use permit for the building identified as "Shed" on the sketches submitted with the application.
3. The owners shall apply for, pay the prescribed fee and obtain an amendment to the Zoning By-law respecting the lot to be retained, such that it be rezoned to prohibit more than one dwelling unit, and the By-law be in effect.
4. Submit to the Secretary-Treasurer written confirmation from an experienced and qualified Agrologist that the application meets or exceeds the MDS 1/2 criteria.
5. Submit to the Secretary-Treasurer one copy of the preliminary reference plan of survey of the residential lot to be severed for review and endorsement and the subsequent registered reference plan of survey.
6. Submit to the Secretary-Treasurer payment of all past due taxes and charges added to the tax roll, if any, at such time as the deeds are stamped.
7. Submit to the Secretary-Treasurer a deed in triplicate for endorsement with the certificate of consent which deed shall contain a registerable description of the parcel of land described in the decision.
8. The owners' solicitor shall provide a written undertaking to the Secretary-Treasurer confirming, pursuant to Subsection 53(43) of the Planning Act, that the deed in respect of this transaction shall be registered in the proper land registry office within six months from the date that the Secretary-Treasurer's certificate is stamped on the deed, failing which the consent shall lapse.
9. The owners' solicitor shall also undertake to provide a copy of the registered Transfer to the Secretary-Treasurer as conclusive evidence of the fulfillment of the above-noted undertaking.
10. All of these conditions shall be fulfilled within a period of one year after the giving of the Notice of Decision, failing which, pursuant to Subsection 53(41) of the *Planning Act*, this consent shall be deemed to be refused.

Recorded	For	Against
Councillor Seymour-Fagan	X	
B. Archer		X
D. Marsh	X	
S. Richardson	X	
L. Robertson	X	
S. Strathdee	X	
Results	5	1

Carried

5. Correspondence

6. Other Business

6.1 Appeal COA2018-016

Mr. Holy announced that the Decision on Minor Variance Application D20-2018-009 for 154 Ball Point Road had been appealed by Russell Mollins to the Local Planning Appeal Tribunal (LPAT).

6.2 Ontario Association of Committee of Adjustment Conference

The Committee made reference to the upcoming Ontario Association of Committee of Adjustment and Consents Conference in June, 2018 and suggested that someone should attend so they could garner information and present it to the Committee at a later date.

Moved By D. Marsh

Seconded By S. Richardson

Mr. Holy said he will look into a Planner attending.

Carried

7. Next Meeting

The next meeting will be Thursday, May 17th at 1:00 p.m. in Council Chambers, City Hall.

8. Adjournment

Moved By S. Richardson

Seconded By D. Marsh

That the meeting adjourned at 3.58 p.m.

Carried

Mark LaHay, Acting Secretary-Treasurer